

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

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| Type of Requestor: (x) HCP () IE () IC | Response Timely Filed? (x) Yes () No |
| Requestor's Name and Address Vista Medical Center Hospital 4301 Vista Road Pasadena, Texas 77503 | MDR Tracking No.: M4-03-9010-01 |
| | TWCC No.: |
| | Injured Employee's Name: |
| Respondent's Name and Address City of Houston P O Box 162443 Westlake Station Austin, Texas 78716 Box 42 | Date of Injury: |
| | Employer's Name: City of Houston |
| | Insurance Carrier's No.: W9133537BC |

PART II: SUMMARY OF DISPUTE AND FINDINGS

| Dates of Service | | CPT Code(s) or Description | Amount in Dispute | Amount Due |
|------------------|----------|----------------------------|-------------------|-------------|
| From | To | | | |
| 08/21/02 | 08/26/02 | Surgical Admission | \$104,922.36 | \$23,125.00 |
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PART III: REQUESTOR'S POSITION SUMMARY

"According to the literal interpretation of TWCC Rule 134.401 and the further clarification by the TWCC from QRL 01-03, a Carrier may not 'deduct' any carve-out costs listed in Rule 134.401(c)(4). Further, additional reimbursement for implants or any other 'carve-out costs' shall only be reimbursed at cost plus 10% if the stop-loss threshold is NOT met. Therefore, in this instance, the Carrier has severely under-reimbursed the billed charges, despite the clear language in the Texas Administrative Codes and further clarification by the TWCC in QRL 01-03."

PART IV: RESPONDENT'S POSITION SUMMARY

"...the Commission issues a letter on March 5, 2002, which mistakenly state the Carrier has failed to respond and/or schedule a second opinion appointment regarding the spinal surgery. The Commission's pre-authorization of the spinal surgery was in error, and deprived the Carrier of its rights to an evaluation of the requested surgery. The Commission acted outside of its authority in pre-authorizing the surgery. The Carrier contends it should not be liable for a surgery which the Commission improperly pre-authorized."

PART V: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

This dispute relates to inpatient services provided in hospital setting with reimbursement subject to the provisions of Rule 134.401 (Acute Care Inpatient Hospital Fee Guideline). The hospital has requested additional reimbursement according to the stop-loss method contained in that rule. Rule 134.401(c)(6) establishes that the stop-loss method is to be used for "unusually costly services." The explanation that follows this paragraph indicates that in order to determine if "unusually costly services" were provided, the admission must not only exceed \$40,000 in total audited charges, but also involve "unusually extensive services."

After reviewing the information provided by both parties, it does **not** appear that this particular admission involved "unusually extensive services." The requestor submitted an operative report indicating an anterior fusion from a posterior approach was performed. The patient was sent to the recovery room in good condition and no complications were noted. Accordingly, the stop-loss method does not apply and the reimbursement is to be based on the per diem plus carve-out methodology described in the same rule.

Carrier denied services indicating per-authorization was not obtained. The requestor submitted a result of spinal surgery second opinion process dated March 5, 2002, indicating that pre-authorization was obtained. Therefore, this dispute will be reviewed per the ACIHFG (acute care inpatient fee guidelines)

The carrier made reimbursement for the 5-day stay in the amount of \$0.00.

The requestor billed \$66,180.00 for the implantables.

The requestor submitted invoices indicating the cost for the implantables were \$17,535.00.

Therefore, reimbursement based on per diem for the 5-day stay is \$5,590.00(5 x \$1,118.00) and reimbursement for the implantables at cost plus ten percent is \$19,288.50 (\$17,535.00 x 110%). Per diem for the 5-day stay is \$5,590.00 + \$19,288.50 for the implantables = \$23,125.00 total reimbursement recommended.

Therefore, based on the facts of this situation, the parties' positions, and the application of the provisions of Rule 134.401(c), we find that the health care provider is entitled to reimbursement.

PART VI: COMMISSION DECISION

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is entitled to reimbursement in the amount of \$23,125.00. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 20 days of this Order.

Ordered by:

Allen McDonald

08/09/05

Authorized Signature

Typed Name

Date of Order

PART VII: YOUR RIGHT TO REQUEST A HEARING

If you are unhappy with all or part of this decision, you have the right to appeal the decision. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas 78744 or faxed to 512-804-4011. A copy of this Decision should be attached to the request.

Beginning September 1, 2005, appeals of medical dispute resolution orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

PART VIII: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision and Order in the Austin Representative's box.

Signature of Insurance Carrier: _____ Date: _____